

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 99-185

March 30, 1999

PUBLIC UTILITIES COMMISSION
Investigation of Retail Electric Transmission
Services and Jurisdictional Issues

NOTICE OF INVESTIGATION

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

Through this Notice, we initiate an investigation into retail electric transmission service and jurisdictional matters. The investigation will include an examination of the appropriate federal-state jurisdictional split between transmission and distribution facilities, as well as consideration of various issues raised by the interactions among federal and regional transmission rules, FERC-approved transmission tariffs, and Maine's retail access efforts.

II. BACKGROUND

During its 1997 session, the Legislature enacted legislation to restructure Maine's electric industry. P.L. 1997, ch. 316 codified at 35-A M.R.S.A. §§ 3201-3117. As part of its responsibility to implement the restructuring legislation, the Commission initiated an investigation into Central Maine Power Company's (CMP) transmission and distribution revenue requirements and rate design (Docket No. 97-580). During that proceeding, several issues were raised regarding respective federal and state jurisdiction, and the impact of FERC's transmission policies and regional transmission rules on the pricing and terms for retail transmission service. Due to the complexity of the issues, CMP suggested that the Commission initiate a generic investigation into retail transmission matters.

In its Order in the CMP rate investigation, Docket No. 97-580 at 137-139 (March 19, 1999), the Commission concluded that FERC has asserted jurisdiction over retail transmission when generation service is unbundled, and agreed that, as a result, there are a variety of important transmission issues that warrant a generic investigation. One of the primary issues to be examined in the investigation is the jurisdictional split between FERC-regulated transmission facilities and state-regulated distribution facilities. As the Commission noted in its CMP Order, FERC requires utilities to consult with their state regulatory authority prior to filing transmission/distribution facility classifications and cost allocations, and encourages utilities and their state commission to reach agreement in these areas. *Id.* In doing so, FERC requires states to consider

the following seven factors, as well as any other relevant factors, in designating transmission and distribution facilities for jurisdictional purposes:

1. Local distribution facilities are normally in close proximity to retail customers;
2. Local distribution facilities are primarily radial in character;
3. Power flows into local distribution systems; it rarely, if ever, flows out;
4. When power enters a local distribution system, it is not reconsigned or transported on to some other market;
5. Power entering a local distribution system is consumed in a comparatively restricted geographical area;
6. Meters are based at the transmission/local distribution interface to measure flows into the local distribution system;
7. Local distribution systems will be of reduced voltage.

FERC indicated that it would defer to state-supported utility classifications and allocations as long as they are consistent with FERC established principles. As such, we contemplate that a desired result of this investigation would be utility filings at FERC that we would support.

As discussed in the CMP Order, utilities will also have to file at FERC their transmission revenue requirements, as well as retail transmission rates, terms and conditions. *Id.* at 133-137. This investigation will be a vehicle for the Commission to work with utilities and interested parties to ensure that such filings are consistent with state retail access policies.

Finally, as suggested by CMP in its rate proceeding, this investigation will include the following matters:

- Whether customers should have the opportunity to purchase transmission services pursuant to the appropriate open access transmission tariff (OATT), or whether transmission services should only be included with local distribution services in retail T&D rates.

- Whether load-serving entities that provide electric energy to Maine customers can include transmission services with their generation services; in other words, can load-serving entities purchase transmission services on behalf of their

customers, with the result being that the T&D utility would not charge these customers for transmission services;

- Whether transmission providers will be hurt if customers or load serving entities can choose to take transmission services under the appropriate OATT and, if so, whether the Commission should permit Maine utilities to reconcile FERC-approved transmission revenue requirements with actual recoveries so transmission providers are not hurt by the selections; and

- Development of a process for filing the rates, terms and conditions of unbundled retail transmission service with FERC.

III. PROCESS

We are initiating this investigation pursuant to 35-A M.R.S.A. § 1303 and Chapter 110, Part 7. All electric utilities in the State are parties to this proceeding. Interested persons may file petitions to intervene by April 12, 1999. The petitions must state the person's interest in the proceeding and be mailed or faxed to:

Dennis L. Keschl, Administrative Director
Public Utilities Commission
242 State Street
18 State House Station
Augusta, Maine 04333-0018

Persons wishing to monitor the proceeding by receiving Commission documents may request to be placed on the Commission's interested person list by notifying the Administrative Director.

Accordingly, we

O R D E R

1. That an investigation shall be open as described in this Notice.
2. That this Notice shall be sent to all electric utilities in Maine.
3. That this Notice shall be sent to the service list of electric restructuring, Docket No. 95-462.
4. That this Notice shall be sent to the service list in Docket No. 97-580.
5. That this Notice be posted on the Commission's website, <http://www.state.me.us/mpuc>.

Dated at Augusta, Maine this 30th day of March, 1999.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR:

Welch
Nugent
Diamond